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AUTHOR	Foster, Andrew H.; And Others
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ABSTRACT

This report presents a model state legislative bill to provide for the special needs of gifted and talented students. The model bill utilizes a "best practices" framework and attempts to be fiscally responsible and provide maximum flexibility while meeting the needs of gifted and talented students. The model legislation itself begins with a statement of purpose followed by a section defining the population of gifted and talented students and stating a policy of nondiscrimination. A section on supervision of gifted and talented programs covers the Office of State Coordinator, the duties of the Office of State Coordinator, and collaboration with the State Advisory Board. The section on the State Advisory Board for Gifted and Talented Education includes guidelines for Board establishment, Board membership, and Board duties. Specific program responsibilities and criteria are presented in the section on gifted and talented programs. In addition, a definition and nondiscrimination policy statement are offered on the issue of traditionally underserved populations. The final section makes appropriation recommendations. Following the model legislation, analysis is provided for each of the Bill's sections. (DB)

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Gifted Education Policy Studies Program

MODEL LEGISLATION: GIFTED AND TALENTED

Andrew H. Foster
James J. Gallagher
Mary Ruth Coleman

The University of North Carolina at Chapel Hill

EC 303 223

Gifted Education Policy Studies Program
Frank Porter Graham Child Development Center
The University of North Carolina at Chapel Hill
Suite 301, NationsBank Plaza
137 E. Franklin Street
Chapel Hill, NC 27514
(919) 962-7373

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Andrew H. Foster
James J. Gallagher
Mary Ruth Coleman

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SUMMARY

This report presents a model bill that would provide for the special needs of gifted and talented students. It is designed for implementation at the state level, and is intended to provide policy makers with model legislation that can be used to improve services for all of the gifted and talented students in the state.

The model presented here consists of a "best practices" framework grounded in the realities faced by state and local-level educators. It is motivated by a recognition that there are some students who possess special abilities requiring differentiated programming in order to develop their full potential. It is balanced, however, by the caution that any special services or programs offered should be in alignment with the overall educational program and philosophy of the state and the local school district. In addition, the bill recommended by this report takes into account both the fiscal conditions facing states and the current educational reform movement. Consequently, the legislation enclosed consists of a model that is fiscally responsible, provides maximum flexibility, and meets the special needs of gifted and talents students.

Finally, it is critical to note that the legislation recommended in this report is intended as a template. That is, the integrity of the document is in its spirit, not in its letter. Therefore, one should feel free to take only what is needed from this report. It may be that a state needs to reform its gifted and talented law to a substantial degree. If so, utilizing the entire template may be necessary. However, if a state simply needs to improve its definition of gifted, and this definition is appropriate -- use it. In other words, take from this report what is helpful.

Statement of Need

Why should we care about the educational fate of gifted students? Won't they do well anyway? Do they have unmet needs? The answers to these questions reveal a less-than-challenging educational experience for America's most gifted students, lower-than-

expected performances, and needs that, unless met, endanger the society as well as individuals.

A conservative estimate of the number of elementary and secondary school (ages 5-17) students in the United States who can be identified as gifted and talented is in excess of 1.5 million. From this sample will come many of the future leaders of the next generation in business, the sciences, and the arts. There is disturbing evidence, from international comparisons with bright students from other countries and from data of limited performance to high American standards (see recent reports of the National Assessment of Educational Progress), that these students are not being challenged in the traditional American system of education (see also the report from the U.S. Department of Education, National Excellence: A Case for Developing America's Talent, 1994).

A country hoping to maintain and extend its world leadership cannot be cavalier about the academic and intellectual fate of such gifted youngsters, nor is it believable that a program geared to average and below-average students will provide a challenge adequate to allow such students to become "world class" performers in their areas of interest. It is in our collective enlightened self-interest to provide special programming that will allow such students to reach their potential -- for them and for us.

The evidence of limited performance and the multitude of statements from high ability students of boredom and disinterest in education should be an alarm bell for those who care about the nation's future. In order to reach the nation's avowed purpose of meeting the needs of all students, it is necessary to design special opportunities or programs for such talented students within our public school setting.

MODEL LEGISLATION - BILL FORM

Bill Number

Title:
An Act to Provide for the Special Educational Needs of Gifted and Talented Students

Sponsored By:

Short Title
The Gifted and Talented Act of 1994

A-1. Purpose.

This bill requires all school districts in the state to develop and implement programs for the education of all identified gifted and talented students. School districts shall have the authority and responsibility to develop programs for gifted and talented students that respond to community needs. The State will assist and encourage this process with the provision of funding and technical support.

A-2. Gifted and Talented Students.

Subsection 1 - Definition.

Gifted and talented students (or children and youth with outstanding talent) are defined as those students between preschool and twelfth grade who (when compared to others of their age, experience, or environment) excel consistently, or demonstrate the potential to excel consistently, in any one or more of the following areas: general intellectual ability and aptitude, specific subject matter aptitude, creativity, leadership, or the arts. In order to achieve their potential, these students require educational experiences beyond those normally provided by the general school program.

Subsection 2 - Non-Discrimination Policy.

Gifted and talented students may be found within any race, ethnicity, gender, economic class, or nationality. In addition, some students with physical disabilities,

learning disabilities, or behavioral problems may be found to be gifted or talented. The state shall prohibit the discrimination against any gifted and talented student on the grounds on their membership in one of these groups.

A-3. Supervision of Gifted and Talented Programs.

Subsection 1 - The Office of the State Coordinator.

A. The program enacted by this bill shall be administered for the state by the State Coordinator for Gifted and Talented Education and his or her staff, subsequently named the Office of the State Coordinator.

B. Notwithstanding General Statutes to the contrary, the State Coordinator for Gifted and Talented Education will be appointed by the State Superintendent of Public Instruction, or another appropriate official, and will serve at his/her discretion.

C. Notwithstanding General Statutes or applicable rules and regulations, the staff of the Office of State Coordinator for Gifted and Talented Education will be appointed by the State Coordinator for Gifted and Talented Education, and serve at his/her discretion.

Subsection 2 - Duties of the Office of the State Coordinator.

A. Distribution of state funds as directed by the State Legislature;

B. Coordination of programs and services for the Gifted and Talented with other state programs;

C. Development of the rules and regulations governing gifted and talented programs;

D. Development of guidelines for local school districts to direct the implementation of the rules and regulations governing gifted and talented education;

E. Dissemination of guidance and technical support to local school districts;

F. Development of a process through which local school districts may request guidance and technical support;

G. Development of standards for personnel working with gifted and talented students;

H. Periodic review and approval of local school districts' gifted and talented programs;

I. Advocacy for traditionally underserved gifted and talented populations;

J. Increasing public awareness of issues in gifted and talented education; and

K. Ensuring that appropriate procedural safeguards, including due process, exist to protect the educational rights of gifted and talented students.

Subsection 3 - Collaboration with the State Advisory Board.

The Office of the State Coordinator shall be guided in the completion of these duties by the counsel and expertise of the State Advisory Board for Gifted and Talented Education.

A-4. State Advisory Board for Gifted and Talented Education.

Subsection 1 - Establishment of the State Advisory Board.

A State Advisory Board for Gifted and Talented Education consisting of thirteen (13) members is hereby established. The Board will meet no less than twice annually. The Board will elect a Chairperson who will act as a liaison to the Office of the State Coordinator. Board members are entitled to reimbursement for reasonable expenses necessarily incurred in the course of service to the state, but are expected to serve without additional remuneration.

Subsection 2 - Membership of the State Advisory Board.

A. The State Superintendent for Public Instruction will name 3 members; the Governor will name 3 members; the Speaker of the House will name 3 members; and the President pro tem of the Senate will name 3 members. In addition, the State Superintendent for Public Instruction, or his/her designee, will serve on the Board as an ex-officio, non-voting member.

B. Candidates for the Board will be selected due to their experience, commitment to the education of gifted and talented students, and/or the ability to contribute meaningfully to the work of the Board. The Board's membership shall reflect the demographic diversity of the state as closely as possible.

Subsection 3 - State Advisory Board Duties.

A. Assisting the Office of the State Coordinator in the completion of its duties.

B. Developing an annual report on the status of the state's Gifted and Talented programs. The report shall be presented to the Governor, both houses of the Legislature, the State Superintendent of Public Instruction, the State Coordinator for Gifted and Talented Education, and the general public. The report shall be given due consideration in evaluating the state's Gifted and Talented programming, and shall guide policy planning.

A-5. Gifted and Talented Programs.

Subsection 1 - Program Responsibilities.

A. Local school districts are best able to determine the needs of the gifted and talented students they serve. Local school districts are also best positioned to ensure that gifted and talented programs and services are coordinated and articulated with the regular school program. Therefore, all local school

districts shall be responsible for providing appropriate programs and services to their identified gifted and talented students.

B. All local school districts that wish to receive state funding in support of special programs and services for the education of Gifted and Talented students shall prepare and present a comprehensive plan for the education of that district's identified gifted and talented students to the Office of the State Coordinator.

C. The Office of the State Coordinator shall approve all local school district plans that are in accordance with all applicable General Statutes and rules and regulations. Notwithstanding such statutes and regulations, the Office of the State Coordinator shall provide local school districts with the maximum reasonable flexibility in the development of Gifted and Talented programming that responds to local community needs and is articulated in a continuum with the regular school curriculum. The Office of the State Coordinator shall encourage the development of innovative programs for the Gifted and Talented that are clearly in accordance with the needs of the community and the philosophy of the district.

Subsection 2 - Program Criteria.

Local school district programs for the education of gifted and talented students must include the following criteria in order to be considered for state funds.

1. An Identification process consisting of:
    a. A screening process utilized with all students for identifying gifted and talented characteristics;
    b. A multi-criteria selection process;
    c. A self-selection process.

2. A process for identifying gifted and talented students from traditionally underserved populations.

3. A system for delivering differentiated services to gifted and talented students.

4. A professional development program for staff significantly involved in the education of gifted and talented students.

5. An evaluation process to monitor the success of programs.

6. A strategy for implementing the proposed gifted and talented program, including a timeline.

A-6. Traditionally Underserved Populations.

Subsection 1 - Definition.

Historically, students who are economically disadvantaged, culturally diverse, underachieving, preschoolers, physically or learning disabled, or who demonstrate behavior problems, have been underserved in gifted and talented programs.

Subsection 2 - Non-Discrimination Policy.

The state shall prohibit the exclusion of any identified gifted and talented student from appropriate programming due to his or her membership in any one of the traditionally underserved populations. Additionally, the state shall prohibit the use of any identification practice that can be demonstrated to put students from traditionally underserved populations at an inappropriate disadvantage with the district's majority population.

A-6. Appropriation.

A. The State Legislature shall provide all eligible local school districts the funds necessary to provide differentiated gifted and talented programming, as defined in the bill, to not

more than 5% of the district's enrolled student population. In the case that any local school district's gifted and talented program is terminated, any unexpended state funds will revert to the State Treasury.

B. The State Legislature shall provide funding for the Office of the State Coordinator through its budget allocations to the Department of Public Instruction. In the case that the Department does not make a budget request for the Office, the State Legislature will allocate an appropriate level of support, not to be less than the estimated cost of the State Coordinator's salary and the direct expenses incurred by the Office of the State Coordinator in the completion of its duties.

ANALYSIS OF LEGISLATION

A-1. Purpose.

This section sets forth a mandate to local school districts for both the identification of, and service to, students who meet the state's definition of gifted and talented. In addition, it gives local school districts the autonomy to develop this program within the context of the needs of the community that local school district serves. In this way, it establishes a basic guiding principle of local flexibility. It also provides a general statement of the state's responsibilities.

A-2. Gifted and Talented Students.

This section establishes the legal definition of gifted and talented. The definition provided addresses the following areas:

* age eligibility;
* demonstrated and potential abilities;
* accepted areas of giftedness; and
* rationale for differentiated services.

In addition, the section identifies the state's commitment to serving all gifted and talented children, including those from diverse populations. It continues by identifying such groups, and concludes with an anti-discrimination clause.

A-3. Supervision of Gifted and Talented Programs.

This section establishes an Office of the State Coordinator, gives that office supervisory authority, and describes the process by which the office is filled. It then lists the responsibilities of the office holder. These responsibilities include: developing rules, regulations, and guidelines for gifted and talented programming; providing technical support to the local districts; providing funding to the local districts; advocacy for gifted and talented students; and approval of local districts' proposals for gifted and talented programming.

The Office of the State Coordinator is a critical position. It is critical that there be a voice at the state level to speak up for gifted and talented students. In addition, the Office of the State Coordinator is in a unique position to distribute the most current information in the field of gifted and talented education, and to teach local school districts how to get the most out of it. Consequently, it is very important that the legislation not only establish the Office of the State Coordinator, but that it create a funding mechanism for it as well (see section A-6).

A-4. State Advisory Board.

This section establishes the State Advisory Board for Gifted and Talented Education. The Board is necessary for several reasons. First, as advisors to the Office of the State Coordinator, board members can help to educate the State Coordinator and his/her staff on issues relating to gifted education. Second, the board members can help to ensure that all groups and areas in the state are represented in the policy decisions made by the Office of the State Coordinator. Third, board members can act as advocates for gifted and talented students, thus expanding the base of publicly-recognized support for these students. Finally, board members, if well selected, can be a powerful base of political support for gifted and talented students. They may be instrumental in getting support for policy initiatives, and in solidifying appropriations for local districts' programs.

Section A-5 also establishes criteria by which board members will be selected. These criteria do not require that the nominee have background in the area of Gifted and Talented education, but it does require that they are committed to the purposes of special education programming and can contribute to the work of the board. This clause gives the people nominating the board the maximum flexibility in selecting board members and increases the possibility that it will be an effective body.

The section also addresses the issue of the board's duties. In addition to assisting the Office of the State Coordinator in the completion of its mission, the board is directed to

produce an annual report on gifted and talented education. This is important because it produces another level of evaluation of the state's efforts in this area. In addition, it creates a yearly opportunity to focus public attention on the issue of gifted and talented education.

A-5. Gifted and Talented Programs.

This section affirms local school district's authority in the area of planning and implementing Gifted and Talented programming. One of the primary purposes of this model legislation is to emphasize the concept of local control and to integrate services for the gifted and talented into the educational reform movement. This section, therefore, establishes program criteria that all local school districts must address in order to be eligible for state funding, but gives the districts the opportunity to develop services and programs that meet these criteria and are complementary to the practices of site-based management and local control. This section also encourages the Office of the State Coordinator to play an affirmative action in this area by requiring him/her to evaluate programs on the degree to which they respond to community needs and are innovative.

One of the most important elements of this model legislation is in this section. Under Subsection 3, Program Criteria, eligible programs are directed to develop an identification process that includes the screening of all students for characteristics indicative of giftedness, as well as a multi-criteria selection process. These two elements are fairly conventional "Best Practices." What is unique is the requirement that eligible districts implement an identification procedure that recognizes student self-selection for gifted and talented programming.

School systems typically have a variety of challenging programs in which superior performance by a student is a clear indicator of unusual gifts and talents (an honors course in English, a magnet school stressing mathematics, advanced foreign language, etc.). Successful performance in such programs, under this legislation, can be considered prima

facie evidence of giftedness, and can be used by the student to self-select differentiated programming.

These two methods of identification (self-selection and multi-criteria selection of students by the district) are necessary in order to give all students the opportunity to demonstrate their abilities or potential. Many students will not bother to self-select themselves; other students have self-images that are so low that they will not seek out challenging activities on their own. Such students may be identified by the district's screening and selection processes. On the other hand, some students who would not be identified for gifted and talented programs through those processes can demonstrate their need for differentiated services through their performance in specific content areas, such as mathematics. Students identified under either method could be included in the total 5% allowable for state support.

A-6. Traditionally Underserved Populations.

This section reaffirms and expands on the commitment made by the state in section A-2 to serve all of the state's gifted and talented children. It begins by defining traditionally underserved populations -- gifted and talented students who, because of their membership in groups with certain racial, economic, physical, or social characteristics, have been historically denied equal access to appropriate services. It then puts forth the state's non-discrimination policy, as it applies in this situation. Finally, the language in this section goes beyond the traditional anti-discrimination clause, and denies school districts the right to use identification strategies that can be shown to discriminate against traditionally underserved populations. This clause is critical because there is currently very little protection for gifted and talented students from "front end" discrimination. An example of the kind of practice barred by this section is an identification process consisting entirely of standardized and non-standardized placement tests, written only in English, and offered to

English as a Second Language students as the sole measure of their potential for participation in gifted and talented programming.

A-7. Appropriation.

This section establishes a maximum amount the State Legislature can allocate for gifted programming. This ceiling is set at the actual cost of providing special gifted and talented services to 5% of a district's enrollment. The section also provides a mechanism by which districts' allocations will be reverted if services are not offered.

In addition, this section requires the appropriation of state funds for the Office of the State Coordinator. This is a critical piece of the legislation, because it established the priority of keeping the Office of the State Coordinator operational even when the fiscal situation is tight.

Frank Porter Graham
Child Development Center
CB No. 8040, 300 NationsBank Plaza
Chapel Hill, NC 27599